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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 KEITH L. NASH,

11 Plaintiff,

12 v.

No. C09-5178RBL

13 ELDON VAIL, *et al.*

ORDER

14 Defendants.  
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16 This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned  
17 Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrate  
18 Judges' Rules MJR 1, MJR 3, and MJR 4. This matter is before the court on plaintiff's response  
19 to the court's previous order, which explained certain deficiencies in the underlying complaint.

20 After reviewing the record, the undersigned finds and orders as follows:

21 1. On March 26, 2009, the court clerk received plaintiff's Complaint along with an  
22 application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. On April 20, 2009, the  
23 court granted the application and reviewed the Complaint, which was found to be deficient. *See*  
24 Doc. 6. Plaintiff responded by filing an Amended Complaint and a brief including argument  
25 why his claims are not deficient. (Docs. 7 & 8).  
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ORDER - 1

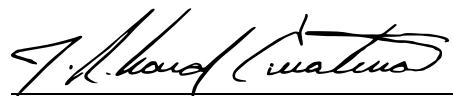
1           2.       A review of the brief and Amended Complaint shows further deficiencies, which  
2 must be cured or corrected. For instance, plaintiff continues to name individuals as defendants  
3 based on their supervisory role or capacity. The court previously explained that a defendant  
4 cannot be held liable under 42 U.S.C. § 1983 solely on the basis of supervisory responsibility or  
5 position, *citing* Monell v. New York City Dept. of Social Services, 436 U.S. 658, 694 n.58  
6 (1978).

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8           More significant is the fact that the Amended Complaint contains an additional plaintiff –  
9 Mr. Jamar Hurse. Mr. Hurse has not filed an application to proceed in forma pauperis, and  
10 would need to do so in order to be added as an additional plaintiff. In addition, the court notes  
11 Mr. Hurse has not signed and/or verified the allegations made in the Amended Complaint.

12           3.       Based on the deficiencies described above, by October 9, 2009, plaintiff shall file  
13 a second amended complaint curing, if possible, the above deficiencies. In addition, Mr. Hurse  
14 must also either pay the requisite filing fee or an application to proceed in forma pauperis by the  
15 same date, otherwise the court may recommend dismissal of this matter in its entirety as  
16 frivolous.  
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18           4.       The clerk is directed to send a copy of this order to plaintiff at his last known  
19 address.

20           DATED this 8<sup>th</sup> day of September, 2009.

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24           J. Richard Creatura  
25           United States Magistrate Judge  
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